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In the Drawings

Amendments to the Drawings are reflected in the figures on the Replacement Sheets submitted herewith.

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Remarks/Arguments

The Non-Final Office action mailed June 21, 2006, has been carefully considered. In light of the Examiner's objections and rejections set forth in that action, the Applicant has amended the Abstract and the claims. The title of the invention has also been amended to more specifically describe the invention. Even in light of these amendments, no new matter has been added. It would be appreciated if the Examiner would acknowledge acceptance of these amendments in the next office action.

Priority

The Examiner has acknowledged the Applicant's claim for foreign priority under 35 USC §§ 119(a)-(d), but also asserted that the Applicant has not complied with the requirements of 37 CFR § 1.63(c).

However, the application data sheet filed with the application does reference the filing of a foreign Swedish application and identify the application by its application number (0203561-6) and filing date (2002-12-02). A copy of the application data sheet is attached as an appendix hereto. Since the application data sheet properly acknowledges the filing of a foreign application in compliance with the requirements of 37 CFR

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§ 1.63(c), the Applicant respectfully requests that the requirement for a new application data sheet be withdrawn.

Oath/Declaration

The Examiner indicated that the declaration is defective because it does not identify the foreign application on which priority is claimed. However, in accordance with 37 CFR § 1.63(c), the declaration does not have to identify a foreign application on which priority is claimed because an application data sheet setting forth such a claim has been filed. Again, a copy of the application data sheet as filed is attached as an appendix hereto. Accordingly, the Applicant respectfully requests that the requirement for a new declaration be withdrawn.

Specification

The Examiner is requiring a new Abstract. Accordingly, an Abstract in compliance with 37 CFR § 1.52(b)(4) is submitted on a separate sheet herewith.

Claim Rejections - 35 USC § 103 - Claims 1, 3, 4, and 6

The Examiner has rejected claims 1, 3, 4, and 6 under 35 USC § 103(a) as being unpatentable over Richardson et al. (GB 2134393). However, the Richardson patent does not teach every

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claim element of at least amended claim 1, namely an apparatus for breathing in a smoky room, wherein both a tubular body and a protection are compactable to and/or expandable from a folded condition which forms a single package that has substantial propagation in one plane and requires little space. Thus, withdrawal of this rejection is respectfully requested.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or combination of prior art references, must teach or suggest all the claim limitations.

In this case, the Richardson reference does not teach every claim limitation of amended claim 1 and those claims depending therefrom. As the Examiner pointed out, Richardson discloses a breathing aid 10 comprising a mask 32, an air intake 12, and an air tube 16 that extends between the mask 32 and the air intake 12. As set forth in the specification of the Richardson patent, the tube 16 is formed of a "flexible plastics material and is provided with ribs for extra strength." Specifically, "[t]he tube is formed of polyvinylchloride and is provided with a highly

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visible fluorescent surface finish to attract attention."

Further, the mask 32 is made from a "flexible plastics material and similar in construction to a conventional oxygen mask as used in medical services." While the Richardson breathing aid 10 includes an air tube 16 and a mask 32 that are both made from flexible plastics materials, the air tube 16 and mask 32 are not "compactable to and/or expandable from a folded condition which forms a single package that has substantial propagation in one plane and requires little space," as required at least by claim 1. Since the Richardson patent does not teach every claim limitation, withdrawal of this rejection is respectfully submitted.

According to the Examiner, since the mask 32 and the air tube 16 are preferably formed of a flexible plastic material, the mask 32 and the air tube 16 are inherently compactable. However, as defined in the specification of the present application, compaction means the ability to be "folded, wrapped, compressed, drawn in or the similar." As such, the term "compaction" requires more than just flexibility. While the mask 32 and the tube 16 of the Richardson reference may be inherently flexible, there is nothing in the Richardson patent that indicates that the mask 32 and the tube 16 are compactable. Since the Richardson patent does not teach a tube and a protection that are

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compactable, Richardson does not teach every claim limitation. Thus, withdrawal of this rejection is respectfully submitted.

In addition to lacking every claim element, the Richardson patent actually teaches away from a mask and a tube that are compactable to and/or expandable from a folded condition which forms a single package having substantial propagation in one plane and requires little space. As set forth above, Richardson discloses an air tube 16 that is formed of a "flexible plastics material and is provided with ribs for extra strength." While the tube may be somewhat pliable, the ribs would prevent the tube from being compacted to a folded position to form a small package. Moreover, the ribs would definitely prevent the tube from being compressed so that the tube can lie flat, as required by at least claim 6. Further, as previously stated, Richardson also discloses a mask 32 that is made from a "flexible plastics material and similar in construction to a conventional oxygen mask as used in medical services." While conventional oxygen masks may be moderately flexible to allow the mask to conform to the shape of a user's face, such masks are not foldable or compressible. Thus, since the Richardson patent teaches away from a breathing apparatus having a tube and a protection that are compactable to form a single, small, flat package, withdrawal of this rejection is respectfully submitted.

Claim Rejections - 35 USC § 103 - Claim 5

The Examiner has rejected claim 5 under 35 USC 103(a) as being unpatentable over Richardson in view of Smith (US 5,377,670). According to the Examiner, Richardson discloses all of the limitations of claim 5, except for a "helical strip arranged in the air channel, that in an elongated state substantially corresponds to the length formed by the air channel." Further, Smith teaches a corrugated tube, where the corrugations are provided along the length of the tube to facilitate bending or shaping the tube without risk of stopped gas flow, so as asserted by the Examiner, it would have been obvious to one of ordinary skill in the art at th the time the invention to include an inner corrugated structure inside a tube to prevent kinking of the tube. However, as discussed above, Richardson lacks a teaching of a tube and a protection that are both compactable. Since Smith also lacks a teaching of a mask that is compactable to a folded condition to form a small package, the combination of the Richardson and Smith patents do not teach every claim limitation. Thus, withdrawal of the rejection of claim 5 is respectfully requested.

Smith discloses an insulated breathing tube arrangement comprising a casing surrounding a corrugated tube for reduction of heat losses between inhalant gas and the surrounding

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atmosphere. Smith is silent regarding a protection that is arranged over at least a user's mouth and nose. Due to the fact that Smith does not teach such a protection, it lacks a teaching of this element of claim 5. Since the Richardson reference also lacks a teaching of a compactable mask, withdrawal of this rejection is respectfully requested.

Drawings

The Examiner has objected to the drawings for failing to show every feature of the invention specified in the claims. Accordingly, the drawings have been amended to show every claim feature, and these amendments are reflected in the Replacement Sheets attached hereto.

Claim Objections

The Examiner has objected to claim 1 for informalities regarding sentence structure. Accordingly, claim 1 has been amended to correct the sentence structure of claim 1, and thus, withdrawal of this objection is respectfully submitted.

In view of the foregoing, reconsideration of the objections and rejections is respectfully requested and favorable consideration and allowance of the claims solicited. Should the

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Examiner have any questions regarding this response, the amendments submitted herewith, or the allowability of the claims, it would be appreciated if the Examiner would contact the undersigned attorney of record at the telephone number provided below for purposes of facilitating prosecution of this application and for scheduling an interview, if necessary.

Respectfully submitted,

DOWELL & DOWELL, P.C.

By

A handwritten signature in black ink, appearing to be 'R. A. Dowell', written over a horizontal line.

Ralph A. Dowell, Reg. No. 26,868

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